

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00213-MR-WCM**

MYRON WAYNE BODTKER,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
WAL-MART, INC.,)	
)	
Defendant.)	
<hr style="width:45%; margin-left:0"/>)	

THIS MATTER is before the Court on the Defendant's Partial Motion to Dismiss [Doc. 15] and the Magistrate Judge's Memorandum and Recommendation [Doc. 33] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On September 13, 2022, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the pending motion. [Doc. 33]. The parties were advised that any objections to the Magistrate Judge's Memorandum

and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

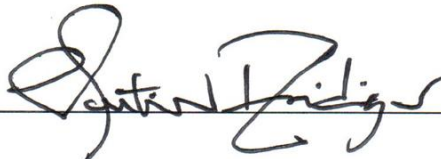
After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation regarding the pending motion.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 33] is **ACCEPTED**, and the Defendant's Motion to Dismiss [Doc. 15] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- (1) The Motion is **DENIED AS MOOT** with respect to the Plaintiff's Title VII claim; and
- (2) In all other respects, the Motion is **GRANTED**, and the Plaintiff's claims pursuant to the United States Constitution, the North Carolina Constitution, and North Carolina General Statute § 130A-157 are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed: October 27, 2022

A handwritten signature in black ink, appearing to read "Martin Reidinger", written over a horizontal line.

Martin Reidinger
Chief United States District Judge

